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April 27, 2022

**By ECF and Email ([Torres\\_NYSDChambers@nysd.uscourts.gov](mailto:Torres_NYSDChambers@nysd.uscourts.gov))**

Hon. Analisa Torres, U.S.D.J.  
U.S. District Court for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: ***Cardiovascular Research Foundation v. Willis Towers Watson Northeast, Inc., et al.***  
**S.D.N.Y. Case No. 1:22-cv-01990-AT**

Your Honor:

On behalf of plaintiff Cardiovascular Research Foundation (“CRF”), I wish to advise the Court of several developments in the referenced litigation.

By way of background, CRF commenced this action on February 4, 2022, when it filed a summons and Verified Complaint against defendants Willis Towers Watson Northeast, Inc. (“WTW NE”) and Willis Towers Watson Southeast, Inc. (“WTW SE”) in New York State Supreme Court, New York County (Index No. 650578/2022). On March 9, 2022, defendants removed this case to federal court based on diversity of citizenship and amount in controversy under 28 U.S.C. § 1332, asserting that “[b]ecause no possibility exists that CRF can establish any cause of action against WTW NE, it has been fraudulently joined and should be disregarded for purposes of establishing diversity jurisdiction.” (Dkt. No. 3, ¶ 28). On March 29, 2022, CRF filed a motion to remand this case to New York State Supreme Court (Dkt. Nos. 11-13), explaining that CRF had asserted claims against WTW NE – a non-diverse party – based on representations made in a January 8, 2021 letter from Kelly J. Smits, Assistant General Counsel & E-Discovery Counsel at Willis Towers Watson, linking WTW NE to the placement of insurance coverage that is the subject of CRF’s claims. On April 1, 2022, defendants’ counsel filed WTW SE’s Answer to CRF’s Verified Complaint (Dkt. No. 14), while also filing a pre-motion letter to the Court, seeking permission for WTW NE “to file a motion to dismiss for failure to state a claim.” (Dkt. No. 15). CRF responded by letter dated April 8, 2022 (Dkt. No. 16), requesting that the Court refrain from setting a briefing schedule with respect to defendants’ contemplated motion to dismiss until after the determination of CRF’s pending motion to remand, noting that “should the Court deny the remand motion, CRF can reconsider – with the benefit of the documentation submitted by defendants in opposition to the remand motion and the reasoning set forth in the Court’s decision – whether it still intends to oppose the motion” to dismiss. On April 15, 2022, defendants filed their opposition to CRF’s remand motion (Dkt. Nos. 19-20), including the April 14, 2022 Declaration of Kelly J. Smits in

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which Smits states that the statement in her January 8, 2021 letter referencing WTW NE was “not correct,” but instead was “was simply an unintentional error on my part.” (Dkt. No. 20, ¶ 8).

Based on the factual representations contained in the March 9, 2022 Affidavit of John Beam (Dkt. No. 3) and the April 14, 2022 Declaration of Kelly J. Smits (Dkt. No. 20), and the exhibits filed therewith, CRF wishes to dismiss this action without prejudice as against WTW NE, and to withdraw its motion to remand. Additionally, in light of the contemplated dismissal of the action as against WTW NE, CRF wishes to file a First Amended Complaint against WTW SE as the sole defendant, removing all references to WTW NE and containing appropriate jurisdictional allegations. Toward this end, CRF seeks leave of the Court to file a First Amended Complaint, as well as an Order from the Court removing WTW NE from the caption in this action and changing the caption to *Cardiovascular Research Foundation v. Willis Towers Watson Southeast, Inc.*

In order to accomplish the foregoing objectives, CRF proposes the following schedule:

- CRF’s Motion to Remand this case to New York State Supreme Court (Dkt. Nos. 11-13) is immediately withdrawn;
- CRF will file a Notice of Voluntary Dismissal of the action as against WTW NE without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) on or before April 29, 2022;
- Upon CRF’s filing of Notice of Voluntary Dismissal of the action as against WTW NE, the caption of this case shall be amended to remove the name “Willis Towers Watson Northeast, Inc.,” so that the caption will now read *Cardiovascular Research Foundation v. Willis Towers Watson Southeast, Inc.*;
- CRF will file a First Amended Complaint solely against defendant WTW SE on or before May 6, 2022; and
- WTW SE will file an answer to the First Amended Complaint on or before May 27, 2022.

Alternatively, CRF requests a short telephonic conference with the Court to determine the most efficient manner in which to accomplish the foregoing objectives. I have conferred with Ruth Rauls, counsel for the defendants, who has no objection to this approach.

GRANTED. The Clerk of Court is directed to terminate the motion at ECF No. 11.

SO ORDERED.

Dated: April 28, 2022  
New York, New York



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ANALISA TORRES  
United States District Judge